



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/171434

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 19, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on March 09, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner FoodShare (FS) benefits because of his immigration status.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner is not a United States citizen. He has been a permanent resident of the US since August 5, 2012.

3. On January 11, 2016 the petitioner applied for FoodShare (FS) benefits. He reported that he and his wife were a FS household, and that they did not have any income. He further reported that both were permanent residents of the US since August 5, 2012.
4. On January 12, 2016 the agency sent the petitioner a notice stating that he was denied FS benefits because he was not a US citizen or immigrant eligible for FS benefits.
5. On January 19, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

### **DISCUSSION**

To be eligible for FS, a person must be a U.S. citizen, a qualifying alien, or a member of certain specified classes of immigrants or refugees, none of which apply in this case. 7 C.F.R. §273.4(a). Importantly for this case, an alien lawfully admitted for permanent residence is not eligible for FS for five years from the date of lawful admittance for permanent residence. 7 C.F.R. §274.4(a)(6)(iii). The requirements for eligibility for immigrants also are set out in the FS Handbook, Appendix 3.12.1.1, Chart 1. To be eligible for FS a person must reside in this country as a "qualified alien" for five years, and a "qualified alien" is specifically defined as a person lawfully admitted for permanent residence. Id.

Although the petitioner is lawfully in the US as a permanent resident, he does not qualify for FS benefits. The petitioner has been a permanent resident since August 5, 2012. As of the date of application the petitioner had not been a permanent resident for five years, and thus was ineligible for FS benefits. The petitioner argued that he has no income, and needs this benefit. I have no reason to doubt the petitioner. Unfortunately, he simply does not qualify for this benefit under the federal regulations.

### **CONCLUSIONS OF LAW**

The agency correctly denied the petitioner FoodShare (FS) benefits because of his immigration status.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of

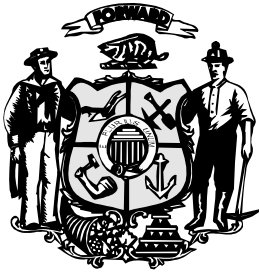
Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of March, 2016

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 14, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability